

General Information

EFFECT OF 18 U.S.C. Chapter 40 ON THE FIREWORKS INDUSTRY

[CAUTION! This item discusses Federal requirements only. Please contact your State/local authorities for any additional requirements.]

Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40) establishes controls over explosive materials, including black powder and other pyrotechnic compositions commonly used in fireworks. Part 55 of Title 27, Code of Federal Regulations (CFR), contains the regulations which implement Title XI.

Section 55.141(a)(7) exempts "the importation, distribution, and storage of fireworks classified as UN0336, UN0337, UN0431, or UN0432 explosives by the U.S. Department of Transportation at 49 CFR 172.101 and generally known as 'consumer fireworks' or 'articles pyrotechnic.'" Section 55.141(a)(7) does not exempt "display fireworks," as defined in 55.11.

With Respect to Fireworks: Who needs a license?

1. Manufacturers of black powder;
2. Manufacturers of any other explosive material used in manufacturing consumer fireworks or display fireworks; and
3. Importers of, or dealers in, display fireworks.

With Respect to Fireworks: Who needs a permit?

1. A person acquiring or transporting display fireworks interstate for his own use and not for resale. [Agencies of the United States or of any State or political subdivisions thereof are exempt from permit requirements.]; and
2. A person, other than a licensee, acquiring or transporting explosive materials interstate for use in manufacturing display fireworks or consumer fireworks.

With Respect to Fireworks:

Who may not need a license or permit?

Frequently, persons contracting for display fireworks (such as would be appropriate for Fourth of July observances) from an out-of-State dealer receive a total service, including the services of a pyrotechnician who transports display fireworks in interstate commerce to the site of the display and conducts or supervises the display. In these instances, the customers purchase the dealer's services rather than the explosive materials themselves, and the cost of the services includes the dealer's expense in providing the fireworks utilized.

When business is transacted in this manner, the customers purchasing and receiving the services need not obtain Federal explosives licenses or permits under Part 55 since they are not actually acquiring explosive materials outside their States of residence, and they are not receiving such materials or causing them to be transported in interstate commerce.

If the person furnishing the services is a licensee or permittee, the person's interstate transportation of explosive materials to the display sites would be conduct authorized by the license or permit.

With Respect to Fireworks: Types of permits

1. User permit: Allows a permittee to acquire, transport, ship and receive display fireworks in interstate or foreign commerce for his or her own use and not for resale. This permit is issued at a cost of \$100 for a 3-year period and is renewable at a cost of \$50 for a 3-year period.
2. User-limited of display fireworks permit: Identical to the user permit but issued for a single transaction, only. The fee is \$75; the permit is nonrenewable. A new permit must be obtained for each transaction.

With Respect to Fireworks: Storage

The law prohibits any person from storing any explosive materials in a manner not in

conformity with the regulations promulgated by the Secretary of the Treasury (18 U.S.C. 842(j)). Pursuant to this section, the Secretary has prescribed storage regulations in 27 CFR Part 55, Subpart K. Since display fireworks are not exempt, they must be stored in conformity with the regulations.

Display fireworks generally contain perchlorate mixture explosives, potassium chlorate base explosive mixtures, and black powder, which are entered on the List of Explosive Materials with numerous others. (The List is annually compiled and readily available without charge from the address set out in 27 CFR 55.23.)

Display fireworks must be stored as low explosives in magazines meeting, at a minimum, the requirements for type 4 storage magazines prescribed by 27 CFR 55.210 unless they contain other classes of explosives. Bulk salutes must be stored as high explosives in type 1 or type 2 magazines. The net weight of the explosive materials contained in the display fireworks may be used in determining compliance with table of distance requirements. To determine the actual weight of the materials, it may be necessary to contact their manufacturers.

The manufacturer of exempt or nonexempt fireworks having stocks of explosive materials on hand to be used in the manufacture of fireworks must store the stocks in conformity with applicable storage requirements.

EXPLOSIVES DEALER'S AND USER'S GUIDE TO FEDERAL EXPLOSIVES REGULATION

EXPLOSIVES MAY NOT BE DISTRIBUTED BY LICENSEES TO ANY PERSON WHO:

- Is under 21 years of age.
- Has been convicted of a crime punishable by imprisonment for a term exceeding one year.
- Is under indictment for a crime punishable by imprisonment for a term exceeding one year.
- Is an unlawful user of, or addicted to, marijuana or any depressant or stimulant drug or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802).
- Has been adjudicated as a mental defective or has been committed to a mental institution.
- Is a fugitive from justice.
- May not lawfully purchase, possess, or use explosives under State or local laws applicable at the place of distribution.

DEALERS IN EXPLOSIVES MUST:

- Have a Federal license.
- Have proper storage facilities.
- Keep accurate and complete records.
- Verify that each out-of-State buyer has a Federal license or permit.
- Have nonlicensees/nonpermittees execute Forms 5400.4, "Explosives Transaction Record."
- Have employees of buyers or carriers to whom delivery is made at a distributor's premises execute Forms 5400.8, "Explosives Delivery Record."
- Verify buyers' identities.

USERS OF EXPLOSIVES—PERMITTEES AND NONPERMITTEES:

Federal permits are required of those who purchase explosive materials from outside their State of residence and /or transport them interstate. The permittee must keep complete and accurate records of the acquisitions and dispositions of explosives materials.

Nonpermittees may buy and use explosives materials in their State of residence without obtaining a Federal permit. They must give proper identification to the dealer and execute Form 5400.4, "Explosives Transaction Record."

NO PERSON SHALL STORE ANY EXPLOSIVE MATERIAL IN A MANNER NOT IN CONFORMITY WITH REGULATIONS

ALL PERSONS WILL PROMPTLY REPORT TO ATF AND LOCAL AUTHORITIES ANY LOSS OR THEFT OF THEIR EXPLOSIVE MATERIAL

A FEDERAL LICENSE OR PERMIT DOES NOT CONFER ANY RIGHT OR PRIVILEGE TO VIOLATE ANY STATE LAW OR LOCAL ORDINANCE

The above summary is general and does not purport to fully convey the Federal explosives law and regulations pertaining to dealers and users.

BLACK POWDER TRANSACTIONS

Public Law 93-639 (1975) allows nonlicensees/nonpermittees to purchase commercially manufactured black powder, in quantities of 50 pounds or less, solely for sporting, recreational or cultural purposes for use in antique firearms or antique devices outside of Federal controls.

A nonlicensee or nonpermittee purchasing black powder under the exemption need not be a resident of the State in which the dealer is located. Also, the categories of persons to whom the distribution of explosive materials is prohibited do not apply to black powder transactions made under the exemption.

Acquisitions of black powder not qualifying under this exemption are subject to the same regulatory requirements that govern any other low explosive.

All persons who sell black powder, regardless of quantity, must be licensed as explosives dealers and must provide adequate storage.

EXPLOSIVES SECURITY

Through prompt reporting of losses and thefts of explosives and increased emphasis on physical security, explosives licensees and permittees can contribute greatly to efforts by Federal, State and local authorities to reduce the incidence of bombings in the United States.

The following actions are of prime importance:

REPORT . . . thefts or losses of explosives from magazines, premises, and job sites promptly, by telephone, to ATF (toll free: 1-800-800-3855) and to appropriate local and/or State authorities. Because the States and many municipalities have designated specific agencies to investigate the theft or loss of explosives, licensees and permittees are urged to be familiar with State and local reporting procedures and appropriate contact points.

FOLLOW . . . telephone notification with a written report on ATF Form 5400.5, "Report of Theft or Loss—Explosive Materials," to the nearest ATF Division Office.

OBSERVE . . . activity around magazines, within business premises, and on job sites, particularly if strangers appear to be loitering in the area in which explosives are being kept. On-site users should take special care to assure that explosives removed from storage for use on the job are either detonated or accounted for and returned to storage.

REVIEW . . . recordkeeping practices to assure that no discrepancies exist and that no figures in reported inventories have been manipulated, and correct any clerical errors promptly.

Should any questions arise concerning explosives security procedures or any aspect of explosives regulation coming under the jurisdiction of ATF, do not hesitate to contact ATF.

ADDITIONAL INFORMATION

The flow of useful information is an essential ingredient in the effective administration of regulatory programs. The Treasury Department's Bureau of Alcohol, Tobacco and Firearms is the Federal agency charged with the responsibility of administering laws impacting four different industries. Two publications warrant mention:

A. The Alcohol, Tobacco and Firearms Quarterly Bulletin

The Alcohol, Tobacco and Firearms Quarterly Bulletin is the authoritative instrument of the Bureau for announcing official rulings and procedures, and for publishing Treasury decisions, legislation, administrative matters, and other items of general interest. It incorporates, into one publication, ATF matters of public record.

The publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

B. The Explosives Industry Newsletter

During 1989 ATF developed the Explosives Newsletter, an information service for Federal explosives licensees and permittees which is intended to help explosives industry members

better understand the Federal laws under which they must operate. It also includes other items of particular interest to the explosives industry. There is no charge for the Explosives Newsletter; licensees and permittees automatically receive copies when new editions are published.

Explosives industry members wishing to express ideas or obtain answers to questions concerning any of the topics covered may address suggestions and inquiries to:

Bureau of Alcohol, Tobacco and Firearms
Public Safety Branch
800 K Street N.W., #680
Washington, DC 20001

LIST OF EXPLOSIVE MATERIALS

Pursuant to the provisions of section 841(d) of title 18, U.S.C., and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco and Firearms, must revise and publish in the Federal Register at least annually a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of title 18, U.S.C. Accordingly, the following is the 1999 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40; it includes both the list of explosives (including detonators) required to be published in the Federal Register and blasting agents.

The list is intended to include any and all mixtures containing any of the materials on the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in section 841 of title 18, U.S.C. Explosive materials are listed alphabetically by their common names, followed by chemical names and synonyms in brackets.

This revised list supersedes the List of Explosive Materials dated May 1, 1998 (Notice No. 360; 63

FR 24207) and will be effective as of September 14, 1999.

List of Explosive Materials

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.
Ammonium perchlorate explosive mixtures.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
Bulk salutes.
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.

Composition C and variations.

Copper acetylide.

Cyanuric triazide.

Cyclotrimethylenetrinitramine [RDX].

Cyclotetramethylenetetranitramine [HMX].

Cyclonite [RDX].

Cyclotol.

D

DATB [diaminotrinitrobenzene].

DDNP [diazodinitrophenol].

DEGDN [diethyleneglycol dinitrate].

Detonating cord.

Detonators.

Dimethylol dimethyl methane dinitrate composition.

Dinitroethyleneurea.

Dinitroglycerine [glycerol dinitrate].

Dinitrophenol.

Dinitrophenolates.

Dinitrophenyl hydrazine.

Dinitroresorcinol.

Dinitrotoluene-sodium nitrate explosive mixtures.

DIPAM.

Dipicryl sulfone.

Dipicrylamine.

Display fireworks.

DNPD [dinitropentano nitrile].

DNPA [2,2-dinitropropyl acrylate].

Dynamite.

E

EDDN [ethylene diamine dinitrate].

EDNA.

Ednatol.

EDNP [ethyl 4,4-dinitropentanoate].

Erythritol tetranitrate explosives.

Esters of nitro-substituted alcohols.

EGDN [ethylene glycol dinitrate].

Ethyl-tetryl.

Explosive conitrates.

Explosive gelatins.

Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.

Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.

Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.

Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.

Explosive mixtures containing sensitized nitromethane.

Explosive mixtures containing tetranitromethane (nitroform).

Explosive nitro compounds of aromatic hydrocarbons.

Explosive organic nitrate mixtures.

Explosive liquids.

Explosive powders.

F

Flash powder.

Fulminate of mercury.

Fulminate of silver.

Fulminating gold.

Fulminating mercury.

Fulminating platinum.

Fulminating silver.

G

Gelatinized nitrocellulose.

Gem-dinitro aliphatic explosive mixtures.

Guanyl nitrosamino guanyl tetrazene.

Guanyl nitrosamino guanylidene hydrazine.

Guncotton.

H

Heavy metal azides.

Hexanite.

Hexanitrodiphenylamine.

Hexanitrostilbene.

Hexogen (RDX).

Hexogene or octogene and a nitrated N-methylaniline.

Hexolites.

HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].

Hydrazinium nitrate/hydrazine/ aluminum explosive system.

Hydrazoic acid.

I

Igniter cord.

Igniters.

Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
 Lead mannite.
 Lead mononitroresorcinate.
 Lead picrate.
 Lead salts, explosive.
 Lead styphnate [styphnate of lead, lead trinitroresorcinate].
 Liquid nitrated polyol and trimethylolethane.
 Liquid oxygen explosives.

M

Magnesium ophorite explosives.
 Mannitol hexanitrate.
 MDNP [methyl 4,4-dinitropentanoate].
 MEAN [monoethanolamine nitrate].
 Mercuric fulminate.
 Mercury oxalate.
 Mercury tartrate.
 Metriol trinitrate.
 Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
 MMAN [monomethylamine nitrate]; methylamine nitrate.
 Mononitrotoluene-nitroglycerin mixture.
 Monopropellants.

N

NIBTN [nitroisobutametrial trinitrate].
 Nitrate sensitized with gelled nitroparaffin.
 Nitrated carbohydrate explosive.
 Nitrated glucoside explosive.
 Nitrated polyhydric alcohol explosives.
 Nitrates of soda explosive mixtures.
 Nitric acid and a nitro aromatic compound explosive.
 Nitric acid and carboxylic fuel explosive.
 Nitric acid explosive mixtures.
 Nitro aromatic explosive mixtures.
 Nitro compounds of furane explosive mixtures.
 Nitrocellulose explosive.
 Nitroderivative of urea explosive mixture.
 Nitrogelatin explosive.
 Nitrogen trichloride.
 Nitrogen tri-iodide.
 Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
 Nitroglycide.
 Nitroglycol (ethylene glycol dinitrate, EGDN).
 Nitroguanidine explosives.
 Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
 Nitronium perchlorate propellant mixtures.
 Nitrostarch.

Nitro-substituted carboxylic acids.
 Nitrourea.

O

Octogen [HMX].
 Octol [75 percent HMX, 25 percent TNT].
 Organic amine nitrates.
 Organic nitramines.

P

PBX [RDX and plasticizer].
 Pellet powder.
 Penthrinite composition.
 Pentolite.
 Perchlorate explosive mixtures.
 Peroxide based explosive mixtures.
 PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
 Picramic acid and its salts.
 Picramide.
 Picrate of potassium explosive mixtures.
 Picratol.
 Picric acid (manufactured as an explosive).
 Picryl chloride.
 Picryl fluoride.
 PLX [95% nitromethane, 5% ethylenediamine].
 Polynitro aliphatic compounds.
 Polyolpolynitrate-nitrocellulose explosive gels.
 Potassium chlorate and lead sulfocyanate explosive.
 Potassium nitrate explosive mixtures.
 Potassium nitroaminotetrazole.
 Pyrotechnic compositions.
 PYX [2,6-bis(picrylamino)]-3,5- dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
 Salutes (bulk).
 Salts of organic amino sulfonic acid explosive mixture.
 Silver acetylide.
 Silver azide.
 Silver fulminate.
 Silver oxalate explosive mixtures.
 Silver styphnate.

Silver tartrate explosive mixtures.
 Silver tetrazene.
 Slurried explosive mixtures of water,
 inorganic oxidizing salt, gelling agent, fuel,
 and sensitizer (cap sensitive).
 Smokeless powder.
 Sodatol.
 Sodium amatol.
 Sodium azide explosive mixture.
 Sodium dinitro-ortho-cresolate.
 Sodium nitrate-potassium nitrate explosive
 mixture.
 Sodium picramate.
 Special fireworks.
 Squibs.
 Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a
 tetrazapentalene].
 TATB [triaminotrinitrobenzene].
 TEGDN [triethylene glycol dinitrate].
 Tetrazene [tetracene, tetrazine, 1(5-
 tetrazolyl)-4-guanyl tetrazene hydrate].
 Tetranitrocarbazole.
 Tetryl [2,4,6 tetranitro-N-methylaniline].
 Tetrytol.
 Thickened inorganic oxidizer salt slurried
 explosive mixture.
 TMETN [trimethylolethane trinitrate].
 TNEF [trinitroethyl formal].
 TNEOC [trinitroethylorthocarbonate].
 TNEOF [trinitroethylorthoformate].
 TNT [trinitrotoluene, trotyl, trilitite, triton].
 Torpex.

Tridite.
 Trimethylol ethyl methane trinitrate
 composition.
 Trimethylolthane trinitrate-nitrocellulose.
 Trimonite.
 Trinitroanisole.
 Trinitrobenzene.
 Trinitrobenzoic acid.
 Trinitrocresol.
 Trinitro-meta-cresol.
 Trinitronaphthalene.
 Trinitrophenetol.
 Trinitrophloroglucinol.
 Trinitroresorcinol.
 Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of
 oxidizing acids and nitrogen bases,
 sulfates, or sulfamates (cap sensitive).
 Water-in-oil emulsion explosive compositions.

X

Xanthamomas hydrophilic colloid explosive
 mixture.

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